

Rule 3018-1 [Amended]

BALLOTS -- VOTING ON PLANS

(a) ***Form of Ballot.*** The form of ballot distributed to creditors shall include both the Court's physical address and information regarding the Chapter 11 eBallot hyperlink on the Court's website, and shall state that ballots must be received by the Clerk no later than the deadline established by order of the Court.

(b) ***Filing of Ballots.*** Ballots may be filed in paper with the Court, or may be electronically filed with the Clerk's Office via the Chapter 11 eBallot hyperlink located on the Court's website, www.flmb.uscourts.gov. A report of all ballots filed may be viewed on CM/ECF.

(c) ***Late-Filed Ballots.*** Any ballot received after the last day to file ballots shall be considered as a late-filed ballot, and its acceptance shall be left to the discretion of the judge.

(d) ***Ballot Tabulation.*** The attorney for the proponent of the Chapter 11 plan shall prepare a tabulation of the acceptances and rejections of the plan. The ballot tabulation shall be filed not later than ninety-six (96) hours prior to the time set in the order or notice for the hearing on confirmation. The tabulation shall list the following for each class: total number of claims voting; total number of claims accepting; total dollar amount of claims voting; total dollar amount of claims accepting; percentages of claims voting that accept the plan; and percentage of dollar amount of claims voting that accept the plan. The ballot tabulation shall also indicate, for each class, whether the class is impaired or unimpaired, and whether the requisite vote has been attained.

(e) ***Rules Governing Ballot Tabulation.*** In tabulating the ballots, the following rules shall govern:

(1) Although CM/ECF creates a ballot report, it may include late-filed or otherwise invalid ballots. The responsibility for independently reviewing and tabulating acceptances and rejections for the plan remains with the attorney for the plan proponent.

(2) Ballots that are not signed, or where a company name is not shown on the signature line (when applicable), will not be counted either as an acceptance or as a rejection.

(3) If the amount shown as owed on the ballot differs from the debtor's schedules, and a proof of claim has been filed, unless an objection to the amount set forth on the proof of claim has been filed, the amount shown on the proof of claim will be used for the purpose of determining the amount voting. If no proof of claim has been filed, the amount shown on the schedules will be used.

(4) If an objection to a proof of claim has been filed, absent court order to the contrary, the ballot filed by the claimant shall not be counted as either an acceptance or a rejection, but information regarding the ballot shall be included on the ballot tabulation.

(5) Ballots that do not show a choice of either acceptance or rejection will not be counted either as an acceptance or as a rejection.

(6) Ballots that are filed after the last date set for filing for ballots will not be counted either as an acceptance or as a rejection, unless leave of Court is granted.

(7) If duplicate ballots are filed, with one electing acceptance and the other electing rejection, neither ballot will be counted unless the later ballot is designated as amending the prior one.

Notes of Advisory Committee

2013 Amendment

This amendment recognizes the Court's current practice, which permits ballots to be electronically filed via CM/ECF. The amendment also clarifies the rules governing ballot tabulations.

2004 Amendment

This amendment 3018-1(b) clarifies how ballots will be submitted to the Court and how they will be maintained by the Clerk's Office.

1997 Amendment

This amendment conforms the existing Local Rules to the uniform numbering system prescribed by the Judicial Conference of the United States and to the model system suggested and approved by the Advisory Committee on Bankruptcy Rules of the Judicial Conference's Committee on Rules of Practice and Procedure. In renumbering the Local Rules to conform to the uniform numbering system, no change in substance is intended. This amendment was effective on April 15, 1997.

This rule was formerly Local Rule 3.05(b) through (d). The Advisory Committee Notes to the superseded rules may be helpful in interpreting and applying the current rules.

1995 Amendment

Local Rule 3.05(b) has been amended to provide that service of the ballot tabulation shall be on the Office of the United States Trustee and any trustee appointed pursuant to 11 U.S.C. § 1104. The other amendments to Local Rule 3.05(b) are stylistic. No substantive change is intended.

A new provision has been added as Local Rule 3.05(c) requiring that the form of ballot distributed to creditors shall include the address of the Court and shall indicate that ballots should be received and retained by the Clerk no later than the deadline established by order of the Court.

The amendments to Local Rule 3.05(d)(1), (d)(3), and (d)(4) are stylistic. No substantive change is intended.

These amendments were effective on February 15, 1995.